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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,403	06/17/2005	Martin Jakubowski	A74US	4538

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EXAMINER

EDGAR, RICHARD A

ART UNIT	PAPER NUMBER
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3745

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,403

Applicant(s)

JAKUBOWSKI ET AL.

Examiner

Richard Edgar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007 under 37 CFR 1.114.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,42-53 and 55-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,42-53 and 55-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 October 2003 has been entered.

Response to Arguments

Applicant's arguments filed 03 October 2007 with respect to WIPO International Publication Number WO 01/73292 A1 have been fully considered but they are not persuasive. Applicants argue the claims differ from WIPO International Publication Number WO 01/73292 A1 in that the invention is adapted to be placed well below the wave motion area and the applied reference is a floating platform sitting on the water surface. Simply, the WIPO International Publication Number WO 01/73292 A1 reference says on page 10, lines 28-29, "The raft should be designed to lie so deep in the water that large waves can wash over it. In this manner, it is possible to stabilize the windmill at high seas." So, the examiner, having ordinary skill in the art to which the invention pertains, wind turbines, cannot determine a difference between the invention as claimed and the WIPO International Publication Number WO 01/73292 A1 reference

applied. Furthermore, Applicants have offered no structural differences; merely that the invention is adapted to be submerged below a wave motion area of a body of water.

The WIPO International Publication Number WO 01/73292 A1 reference can be made to be submerged below a wave motion area of a body of water based on the description given above and in the reference itself.

The remaining arguments regarding the other independent claim and dependent claims do not introduce any new arguments except that the secondary reference(s) do not cure the deficiencies of the primary reference. Therefore, in light of the unpersuasive primary argument, the secondary arguments are also unpersuasive.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the steel, glass fiber, concrete, steel and concrete, glass fiber and concrete, steel and glass fiber, and steel, glass fiber and concrete hollow bodies must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. See MPEP 608.02 IX for acceptable drawing symbols. Please note, the specification must correspondingly be amended to include reference to any new drawing figures, including the brief description of the drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 58, 64 and 65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 58 recites the limitation "the central body" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 64 recites the limitation "the radial arms" in line 2. There is insufficient antecedent basis for this limitation in the claim.

In claim 65, the electrical energy is adapted. It is unclear how Applicants are adapting electrical energy produced by the turbine.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 42-47, 51, 53, 55, 59 and 65 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO International Publication Number WO 01/73292 A1.

WIPO International Publication Number WO 01/73292 A1 shows a buoyant foundation comprising a foundation body 4 having an upper part of the foundation adapted to support a turbine tower having a wind turbine 10 extending therefrom wherein the foundation body 4 is adapted to be submerged below a wave motion area of water (see page 4, lines 1-3). A tension cable 5 is tethered to the turbine tower 1 and the foundation body 4. The tower comprises a chamber for electrical installation 2 and a chamber for storage 1. An anchoring system 8 extends from the foundation body 4 and the floor of the body of water (see page 11, lines 6-8). The foundation body 4 comprises integrated hollow tubes constructed as a single piece (see Fig. 4a, 4b) which are adjusted with water and air to adjust the buoyancy of the foundation. As described

on page 5, lines 1-4, the foundation is allowed to rotate around the counterweights, and therefore, the counterweights are adapted to have adjustable buoyancy.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO International Publication Number WO 01/73292 A1 as applied to claim 20 above, and further in view of United States Patent No. 2,394,764.

WIPO International Publication Number WO 01/73292 A1 discloses pontoons 4, but does not state that the pontoons are metal.

United States Patent No. 2,394,764 discloses metal pontoons (see title) for the purpose of rendering a buoyant structure.

Since WIPO International Publication Number WO 01/73292 A1 discloses pontoons and United States Patent No. 2,394,764 teaches pontoons are metal, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to make the WIPO International Publication Number WO 01/73292 A1 pontoons from metal as taught by United States Patent No. 2,394,764 for the purpose of rendering the foundation buoyant.

Claims 49 and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO International Publication Number WO 01/73292 A1 in view of Japanese Patent Application Laid-open No. 2002-285951.

WIPO International Publication Number WO 01/73292 A1 discloses an offshore wind turbine, but no fish farming base.

Japanese Patent Application Laid-open No. 2002-285951 discloses an offshore wind turbine having a base for farming fish (see abstract).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify WIPO International Publication Number WO 01/73292 A1 to include a fish farming base as taught by Japanese Patent Application Laid-open No. 2002-285951 for the purpose of farming fish.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application Laid-open No. 2002-285951 as applied to claim 49 above, and further in view of United States Patent No. 5,617,813.

Japanese Patent Application Laid-open No. 2002-285951 discloses a fish farm installation at a floating wind power installation, but not a cage or net.

United States Patent No. 5,617,813 shows a fish farming installation uses a cage or net 32, 36 to contain fish.

Since Japanese Patent Application Laid-open No. 2002-285951 teach to farm fish and United States Patent No. 5,617,813 teaches to use a net to farm fish, it would

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have been obvious at the time the invention was made to a person having ordinary skill in the art to use a net in the fish farming installation of Japanese Patent Application Laid-open No. 2002-285951 as taught by United States Patent No. 5,617,813 for the purpose of containing fish.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO International Publication Number WO 01/73292 A1 as applied to claim 51 above, and further in view of Great Britain Patent 849,887.

WIPO International Publication Number WO 01/73292 A1 shows a floating wind turbine 10 on pontoons 4 but does not show an adjustable anchoring system comprising counterweights which are adjusted to control the depth of the platform.

Great Britain Patent 849,887 teach a floating platform 152 comprising pontoons 160 and counterweights 174 which are adjustable to control the depth of the platform 152.

Since WIPO International Publication Number WO 01/73292 A1 is a floating platform on pontoons, and Great Britain Patent 849,887 teaches a floating platform on pontoons with counterweights that are adjustable to control the depth of the platform, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of WIPO International Publication Number WO 01/73292 A1 to have adjustable counterweights as shown by Great Britain Patent 849,887 for the purpose of adjusting the depth of the wind turbine platform.

Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO International Publication Number WO 01/73292 A1 as applied to claim 55 above, and further in view of Japanese Patent Application Laid-open No. 2002-285951.

WIPO International Publication Number WO 01/73292 A1 shows a floating wind turbine installation but does not mention a fish farming installation attached thereto.

Japanese Patent Application Laid-open No. 2002-285951 teaches in the Abstract, a fish farming installation attached to a floating wind turbine installation for the purpose of harvesting fish.

Since WIPO International Publication Number WO 01/73292 A1 teaches a floating wind turbine installation and Japanese Patent Application Laid-open No. 2002-285951 teaches attaching a fish farming installation to a floating wind turbine installation, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the WIPO International Publication Number WO 01/73292 A1 to have a fish farming installation as taught by Japanese Patent Application Laid-open No. 2002-285951 for the purpose of harvesting fish.

Claims 57, 58 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO International Publication Number WO 01/73292 A1.

WIPO International Publication Number WO 01/73292 A1 shows a raft-type foundation 4, but not being a hexagonal shape.

The foundation supports the turbine in a body of water. The specific shape of the foundation as being a hexagonal shape has not been disclosed as serving any

advantage or particular purpose nor whether it solves a stated problem. Since the WIPO International Publication Number WO 01/73292 A1 foundation would equally support the turbine as that claimed in claims 57, 58 and 60, it would have been an obvious matter of design choice to modify the foundation geometry of WIPO International Publication Number WO 01/73292 A1 to be as that claimed.

Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO International Publication Number WO 01/73292 A1 as applied to claim 20 above, and further in view of United States Patent No. 2,394,764.

WIPO International Publication Number WO 01/73292 A1 discloses pontoons 4, but does not state that the pontoons are steel.

United States Patent No. 2,394,764 discloses metal pontoons (see title) for the purpose of rendering a buoyant structure.

The specific material of the hollow body being steel has not been disclosed as serving any advantage or particular purpose nor whether it solves a stated problem. Since the WIPO International Publication Number WO 01/73292 A1 in view of United States Patent No. 2,394,764 hollow metal body would equally support the turbine as that claimed in claim 61, it would have been an obvious matter of design choice to modify the metal of WIPO International Publication Number WO 01/73292 A1 in view of United States Patent No. 2,394,764 to be steel, like that claimed.

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (571) 272-4816. The examiner can normally be reached on Monday thru Friday, 7 am- 5 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard Edgar/
Primary Examiner
Art Unit 3745

RE